

BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
KAREN M. WEEKE)

For Appellant: Karen M. Weeke, in pro. per.

For Respondent: James T. Philbin
Supervising Counsel

O P I N I O N

This appeal is made pursuant to section 18593 of the Revenue and Taxation Code from the action of the Franchise Tax Board on the protest of Karen M. Weeke against a proposed assessment of additional personal income tax and penalties in the total amount of \$1,057.50 for the year 1978.

Appeal of Karen M. Weeke

The sole issue presented by this appeal is whether appellant has established error in respondent's proposed assessment of additional personal income tax or in the penalties assessed for the year in issue.

Respondent received information indicating that appellant was required to file a California income tax return for 1978. Respondent so advised appellant, and demanded that she file any required return; appellant did not respond. Thereafter, respondent issued a notice of proposed assessment based upon information received from the California Employment Development Department. The proposed assessment also included penalties for failure to file a return and failure to file upon notice and demand. After due consideration of appellant's protest, respondent affirmed the proposed assessment, thereby resulting in this appeal.

It is well settled that respondent's determinations of tax are presumptively correct, and appellant bears the burden of proving them erroneous. (Appeal of K. L. Durham, Cal. St. Bd. of Equal., March 4, 1980; Appeal of Harold G. Jindrich, Cal. St. Bd. of Equal., April 6, 1977.) This rule also applies to the penalties assessed in this case. (Appeal of K. L. Durham, supra; Appeal of Myron E. and Alice Z. Gire, Cal. St. Bd. of Equal., Sept. 10, 1969.) No such proof has been presented here.

In support of her position, appellant has advanced a host of familiar contentions, including, inter alia, that she is not a "taxpayer," that respondent lacks the authority to propose assessments, that the burden of proof with regard to the subject proposed assessment is upon respondent, and that wages do not constitute income. Each of the "arguments" raised by appellant was rejected as being without merit in the Appeals of Fred R. Dauberger, et al., decided by this board on March 31, 1982. We see no reason to depart from that decision in this appeal.

On the basis of the evidence before us, we can only conclude that respondent correctly computed appellant's tax liability, and that the imposition of penalties was fully justified. Respondent's action in this matter will, therefore, be sustained.

Appeal of Karen M. Weeke

O R D E R

Pursuant to the views expressed in the opinion of the board on file in this proceeding, and good cause appearing therefor,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED, pursuant to section 18595 of the Revenue and Taxation Code, that the action of the Franchise Tax Board on the protest of Karen M. Weeke against a proposed assessment, of additional personal income tax and penalties in the total amount of \$1,057.50 for the year 1978, be and the same is hereby sustained.

Done at Sacramento, California, this 29th day of June , 1982, by the State Board of Equalization, with Board Members Mr. Bennett, Mr. Dronenburg and Mr. Nevins present.

'William M. Bennett , Chairman

Ernest J. Dronenburg, Jr. , Member

Richard Nevins , Member

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_____, Member